

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN THE MATTER OF A WARRANT TO
SEARCH A CERTAIN E-MAIL ACCOUNT
CONTROLLED AND MAINTAINED BY
MICROSOFT CORPORATION

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**MEMORANDUM OF LAW IN SUPPORT OF MOTION OF AT&T CORP.
FOR LEAVE TO APPEAR AS *AMICUS CURIAE* AND FILE A 20-PAGE BRIEF IN
SUPPORT OF MICROSOFT CORPORATION**

Charles W. Douglas*
SIDLEY AUSTIN LLP
One South Dearborn
Chicago, Illinois 60603
(312) 853-7000
cdouglas@sidley.com
* *Of Counsel*
Attorneys for AT&T Corp.

Alan Charles Raul
Kwaku A. Akowuah
SIDLEY AUSTIN LLP
1501 K Street, NW
Washington, DC 20005
(202) 736-8000
araul@sidley.com
Attorneys for AT&T Corp.

AT&T Corp. (“AT&T”) hereby respectfully requests leave to file a 20-page brief as *amicus curiae* in support of Microsoft. “District courts have broad discretion to permit or deny an appearance as *amicus curiae* in a case,” *In re GLG Life Tech Corp. Sec. Litig.*, 287 F.R.D. 262 (S.D.N.Y. 2012), and *amicus* participation “should normally be allowed ... when the *amicus* has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *C&A Carbone, Inc. v. County of Rockland*, No. 08-cv-6459, 2014 WL 1202699, at *3 (S.D.N.Y. March 24, 2014).

The government has submitted a letter consenting to the filing of *amicus* briefs in this case, but requested that “any *amicus* brief filed in this matter not exceed 15 pages in length” and that *amici* be required to file “no later than June 13, 2014.” *In the Matter of a Warrant to Search a Certain E-Mail Account Controlled and Maintained by Microsoft Corp.*, No. 13 Mag. 2814, Dkt. No. 26 (S.D.N.Y. June 10, 2014). On June 11, 2014, the Court noted the government’s consent and advised that any potential *amici* who “are not in agreement on any details” may “apply to the Court by motion for leave to appear as *amicus curiae*.”

Consistent with the Court’s direction, AT&T respectfully moves for leave to appear as *amicus curiae* and to file a 20-page *amicus* brief. Counsel for AT&T made several attempts, beginning on May 29, 2014, to learn whether the government would consent to AT&T’s *amicus* filing. *See* Declaration of Alan Charles Raul, ¶3. The government did not respond to those email communications. *See id.* ¶4. Neither did the government consult with counsel for AT&T before presenting the Court with its proposed parameters for *amicus* participation. *See id.* ¶6. Counsel for AT&T prepared a 20-page brief for filing, consistent with the guidance stated in Rule 2.C of the Court’s Individual Practice Rules. *See id.* ¶7.

AT&T believes that this proposed *amicus* brief, annexed as Exhibit A to the Raul Declaration, will meaningfully assist the Court's consideration of the important issues presented in this case. As one of the world's largest providers of telecommunications and information services, AT&T frequently interacts with customers in the United States and abroad, including with respect to their data privacy interests. AT&T also receives numerous demands for information from federal, state and local law enforcement agencies, as well as requests from foreign law enforcement officials. These experiences have combined to give AT&T an important perspective on the data privacy and comity concerns that necessarily attend cross-border law enforcement investigations, including practical experience with how Mutual Legal Assistance Treaty procedures are used to address information requests submitted by foreign law enforcement officials. The proposed *amicus* brief addresses those experiences, as well as the underlying questions of statutory interpretation that this matter presents.

CONCLUSION

For the foregoing reasons, AT&T respectfully requests that the Court grant this motion for leave to appear as *amicus curiae* and to file a brief not exceeding 20 pages in length, and order that AT&T's attached proposed *amicus* brief be deemed filed.

Dated: June 11, 2014

Respectfully submitted,

Charles W. Douglas*
SIDLEY AUSTIN LLP
One South Dearborn
Chicago, Illinois 60603
(312) 853-7000
cdouglas@sidley.com
* *Of Counsel*
Attorneys for AT&T Corp.

/s/ Alan Charles Raul
Alan Charles Raul
Kwaku A. Akowuah
SIDLEY AUSTIN LLP
1501 K Street, NW
Washington, DC 20005
(202) 736-8000
araul@sidley.com
Attorneys for AT&T Corp.